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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,939

07/12/2005

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EXAMINER

HWANG, VICTOR KENNY

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

01/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/541,939

Applicant(s)

MATSUI, HIDEKI

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8,9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8,9 and 11-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. <u>20080108</u>                             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date <u>Dec. 18, 2007</u>   | 6) <input type="checkbox"/> Other: _____                           |

## DETAILED ACTION

### *Response to Amendment and Allowable Subject Matter*

1. The finality of the Office action mailed is hereby withdrawn in view of the new ground of rejection set forth below.

The indicated allowability of claim 11 is withdrawn in view of the newly discovered reference(s) to *Wrinkies & Frownies* (<http://web.archive.org/web/20001004172509/www.frownies.com/product.html> showing the website [www.frownies.com](http://www.frownies.com) as it appeared Oct. 04, 2000). Rejections based on the newly cited reference(s) follow.

2. The amendment filed December 12, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the claims have been amended such that all dependent claims ultimately depend from claim 11. Claim 11 is a method of beautification and facelifting using stretch tapes and includes the step of sticking a stretch tape on a face portion while pulling, stretching and fixing the wrinkles of the skin. This claim was originally interpreted by the Examiner to read upon the method disclosed in the specification at pages 11-15, which described a method for removing flabbiness and wrinkles of skin around the eyes. The specification also discloses stretch tapes and methods for changing the shape of the eyes (pages 7 and 8, Figs. 1 and 2, claims 13-15); and for changing the shape of the nose (pages 8-9, Figs. 3-6, claims 8 and 16-18). The method for changing the shape of the nose or eyes is distinct from the method for reducing wrinkles and the combination of methods to remove wrinkles and changing

the shape of the nose or eyes has not been previously disclosed and is considered to be new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Specification*

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: --METHOD OF BEAUTIFICATION AND FACELIFTING USING A STRETCH TAPE--.

### *Claim Rejections - 35 USC § 112*

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 8 and 13-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 11 is directed toward a method of reducing wrinkles and the claims 8 and 13-18, are directed toward structure used to change the shape of the eyes or nose. A method of reducing wrinkles using stretch tape disclosed for use in changing the shape of the eyes or nose is considered to be new matter.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 11 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

*Wrinkies & Frownies* ([http://web.archive.org/web/20001004172509/www.frownies.com/](http://web.archive.org/web/20001004172509/www.frownies.com/product.html)

product.html, 10/04/2000) in view of *Tupper* (US Pat. 3,804,083). *Wrinkies & Frownies*

discloses a product and method for beautification and facelifting that reduces facial wrinkles.

The product is a tape having various shapes that is adhered to a user's facial skin to stretch facial wrinkles. A night cream or moisturizer may be applied, allowing time for it to be absorbed into the skin before applying the *Wrinkies & Frownies* tape product. The wrinkles to be treated are smoothed and then the tape is applied to the smoothed wrinkle and held in place until the tape adheres to the skin. The stretch tape can be applied to the forehead, corners of the mouth, corners of the eyes, across the forehead, or between the eyebrows. The stretch tape should be worn for at least 3 to 4 hours, but ideally overnight. The stretch tape is removed by moistening liberally with water, i.e. washing of the face.

*Wrinkies & Frownies* discloses applying a moisturizer to the face at bedtime; sticking a stretch tape on a face portion while pulling, stretching and fixing the wrinkles of the skin; and removing the stretch tape and washing away the moisturizer on the next day. The stretch tape is stuck substantially horizontally between the eyes, and/or the stretch tape is stuck substantially horizontally near an outer corner of either of the eyes to stretch the outer corners of the eyes

toward outside. The stretch tape is tapered so that the stretch tape points the inner corners or the outer corners of the eyes.

*Wrinkies & Frownies* does not disclose applying an astringing pack to the face (claim 11); and the stretch tape having a width between 5 and 15 mm, a length between 15 and 30 mm, and an angle taper between 20 and 60 degrees (claim 15).

*Tupper* discloses that it is known prevent or minimize wrinkles, especially in the regions below and beside the eyes by a system of taping with self-adhesive tape and astringents and other cosmetic treatments so that wrinkles are pulled flat and alleviated, at least temporarily (col. 1, lines 11-14).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the beautification and facelifting method of *Wrinkies & Frownies* with the step of applying an astringing pack to the face, since *Tupper* discloses that applying an astringent in combination with taping is a known method for preventing or minimizing wrinkles on the face.

*Wrinkies & Frownies* in view of *Tupper* does not disclose the dimensions of the stretch tape as claimed. It would have been an obvious matter of design choice to provide the stretch tapes with a width between 5 and 15 mm, a length between 15 and 30 mm, and an angle taper between 20 and 60 degrees, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

8. Claims 8, 9, 12 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Wrinkies & Frownies* (<http://web.archive.org/web/20001004172509/www.frownies.com/product.html>, 10/04/2000) in view of *Tupper* (US Pat. 3,804,083) as applied to claim 11 above, and further in view of *Kase* (JP 2001104366A) and *Krantz* (US Pat. 5,336,219). *Wrinkies & Frownies* in view of *Tupper* discloses the invention as claimed except for the stretch tape comprising a stretchable base material (claims 8 and 12) of urethane nonwoven fabric (claim 9); the adhesive material applied on the base material at 35 grams/m<sup>2</sup> or more (claims 8 and 12), the adhesive material comprising an acrylic adhesive material (claim 9); the stretch tape having a U shape or V shape in a plane sheet with a stride angle between the feet between 0 and 120 degrees (claims 8 and 16), the bottom portion of the U or V shape being stuck to an upper portion of the nose between the eyes and both foot portions stuck at both sides of the hillside portion of the nose so that the stretch tape stretches the hillside portion of the nose toward the head (claim 16), the width of the stretch tape is between 5 and 20 mm and each foot length is between 15 and 35 mm (claim 17).

*Kase* discloses a stretch tape and method for its use to reduce wrinkles on the face. The stretch tape comprises a stretch fabric 2 having an acrylic adhesive layer 3 for adhering to the face of a user. The stretch tape comprises various shapes, including a U-shape or V-shape (Fig. 7) having a stride angle between 0 and 120 degrees. The V-shape permits the stretch tape to be applied to curved surfaces including the cheek and crests ([0030] of translation).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the stretch tape and method of beautification of *Wrinkies & Frownies* in view of *Tupper* with a stretchable base material having acrylic adhesive and a V-

shape with stride angles between 0 and 120 degrees, since *Kase* teaches that a stretch tape having such properties can be applied to spherical surfaces of the face, including crests and cheeks, to reduce wrinkles.

*Wrinkies & Frownies* in view of *Tupper* and *Kase* does not disclose the stretch tape having a width between 5 and 20 mm and each foot length between 15 and 35 mm (claim 17). It would have been an obvious matter of design choice to provide the stretch tapes with a width between 5 and 20 mm and each foot length between 15 and 35 mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

*Wrinkies & Frownies* in view of *Tupper* and *Kase* also does not disclose the bottom portion of the U or V shape being stuck to an upper portion of the nose between the eyes and both foot portions stuck at both sides of the hillside portion of the nose so that the stretch tape stretches the hillside portion of the nose toward the head (claim 16). *Kase* discloses that the V-shaped stretch tape can be applied to spherical surfaces, including areas such as the cheek and crest. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the V-shape stretch tape of *Wrinkies & Frownies* in view of *Tupper* and *Kase* to the crest of the nose, since it is not uncommon for older users to have wrinkles of the skin on the crest and hillsides of the nose.

*Wrinkies & Frownies* in view of *Tupper* and *Kase* does not disclose the stretchable base material comprising urethane nonwoven fabric (claim 9); and the adhesive material applied on the base material at 35 grams/m<sup>2</sup> or more (claims 8 and 12).



*Krantz* discloses a stretch tape constructed of a base material comprising nonwoven fabric material laminated with a polyurethane material (col. 3, line 59 to col. 4, line 20). An acrylic adhesive is applied to the base material to stick the tape to the skin of a user. The adhesive can be applied in an amount of 42 grams per meter squared (col. 4, line 49) or 50 grams per meter squared (col. 4, line 43). The nonwoven fabric provides the bandage with a means to distribute tension in the applied bandage and the polyurethane material provides stiffness to attenuate the properties of the fabric. The polyurethane gives support to the fabric and prevents the fabric from being stretched excessively, while the fabric layer contributes pliancy to the polyurethane, enabling the bandage to move with the skin. Acrylic adhesive is a common adhesive used in adhesive strip bandages.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the stretch tape of *Wrinkies & Frownies* in view of *Tupper* and *Kase* with acrylic adhesive at 35 grams/m<sup>2</sup> or more and a base material of nonwoven fabric and polyurethane since *Krantz* teaches that such a base material and adhesive provides support and pliancy to enable a bandage to move with the skin.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Golding* (US Pat. 2,392,377), *Rich* (US Pat. 5,555,900), *Perelahi* (FR 2512651 A), *Porter et al.* (WO 96/14822) and *Suzuki* (JP 409143026A) disclose various wrinkle reducing devices and methods relevant to the invention as claimed.

10. Applicant's amendment, filed Dec. 12, 2006, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn H. Thanh can be reached on (571) 272-4966.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Victor K. Hwang  
January 10, 2008

